

OXC-1881-61

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5 JUL 1961

MEMORANDUM FOR: Chief, Administrative Staff, DPD

ATTENTION: Mr. [REDACTED], Personnel Branch,  
DPD

SUBJECT: Certain Legal Aspects of Proposed Benefits  
for Certain Pilots

- REFERENCES:
- a. OXC-1496-61 (SECRET), dtd 27 Mar 61, to C/Admin Staff/DPD fr Asst Gen Coun, subject "OXCART Pilots, Tax Status of Amounts Paid to Obtain 'Insurance' and Tax Status of Proceeds"
  - b. OXC-1413 (SECRET), dtd 3 Mar 61, to AC/DPD/DD-P, fr [REDACTED] subject "Special Accidental Life Insurance for LOCKHEED Test Pilots and Contract Pilots for the OXCART Vehicle"

1. The objective of providing benefits to beneficiaries of certain pilots as outlined in the referenced memoranda suggests two possible approaches, one, insurance, the other, employee benefits paid for by the employer. Tax and BEC aspects were referred to us for consideration. We have discussed the essence of our views, as below, with [REDACTED].

a. Employer-provided Benefits. [REDACTED] memorandum quoted in reference b. indicates that the proposal tentatively agreed upon is to establish employer-provided benefits, rather than insurance, but to have the program handled by a private insurance company for the security, cover, and other advantages derived from overt administration.

(1) The referenced memoranda do not set forth facts upon which to determine whether the pilots are eligible for BEC benefits. Assuming that they are eligible, the

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exclusive remedy provisions of the BEC Act would require that the pilots forego either the BEC benefits or the employer-provided benefits.

(2) Since the benefits are provided by the employer and are not insurance, we would see no basis upon which premiums or other costs experienced by the employer would be taxable income to the pilots.

(3) Almost certainly all of the proceeds to the beneficiary in excess of \$5,000 would be taxable income to the beneficiary.

b. Insurance.

(1) It appears certain that BEC benefits, if any, would not be denied because insurance benefits are also furnished.

(2) Probably the insurance contract could be written in such a way that the premiums would not be taxable income to the pilots. But it would be necessary to work this out with IRS before signing the insurance contract.

(3) It also appears certain that proceeds would not be taxable income to the beneficiaries.

2. Assuming that a group contract can be worked up under which the premiums would not be income to the pilots, the above suggests that advantages are in favor of setting this up as insurance. I would imagine, however, that [REDACTED] would have, or has had, difficulty in negotiating an insurance contract of such unusual features with a commercial carrier. Nevertheless, it might be desirable to push this approach, perhaps reopening negotiations with one or several companies and possibly with the participation and prestige of the DD/S or DCI. The alternative would appear to be to increase the compensation to pilots to equal the tax which the beneficiaries would have to pay over the years. The difficulty here, aside from the increased cost, would be of estimating the tax on income of unknown amounts for persons whose tax circumstances cannot be foreseen.

SIGNED

Distribution:

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OGC/ [REDACTED] (5 July 61)

[REDACTED]  
Assistant General Counsel

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